



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,749	08/24/2001	Nobuyuki Suzuki	35061-02700	4092

7590 03/31/2003

Christopher E. Chalsen, Esq.  
Milbank, Tweed, Hadley & McCloy LLP  
1 Chase Manhattan Plaza  
New York, NY 10005-1413

EXAMINER

DAY, MICHAEL HENRY

ART UNIT	PAPER NUMBER
----------	--------------

2879

DATE MAILED: 03/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/938,749

Applicant(s)  
N. Suzuki, et al.

Examiner  
Michael Day

Art Unit  
2879



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☒ Claim(s) 17-19 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some\* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other:

Art Unit: 2879

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1 and 14 are objected to because of the following informalities: In line 1 of both of the claim, the phrase "a panel which forms a phosphor screen" appears to be grammatically incorrect. It would appear that the applicant intended to claim a panel having a phosphor screen. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-8, and 11-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Saitou et al.

Art Unit: 2879

Referring to claims 1 and 5, Saitou et al. disclose a projection tube including a panel 1, a funnel 2, a first neck portion 3, a second neck portion 4, a stem portion 52 an electron gun including a main lens (see paragraph 0028) which has a final electrode (shield cup 66) and a focus electrode (anode 65), wherein the first neck diameter is smaller than the second neck diameter (see paragraph 0025), the final electrode has a diameter that decreases toward the screen (see FIG. 1), and a high voltage is applied to the final electrode (see paragraph 0026).

Referring to claims 2, 4, 6, 8, 11, and 12, see paragraph 0026.

Referring to claim 3, Saitou et al. disclose a projection tube of claim 1 wherein the final electrode includes a second anode 65 and a shield cup 66.

Referring to claim 7, see paragraph 0030.

Referring to claim 13, see paragraph 0026.

Claim 14 is rejected for substantially the same reasons as claim 1.

Referring to claim 15, see FIG. 1.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2879

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 9, 10, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saitou et al.

Referring to claims 9, 10, and 16, Saitou et al. disclose a projection tube of claims 1 and 14, respectively, including a bulb spacer contact 69 disposed on the final electrode (anode 65). While Saitou et al. are silent as to the bulb spacer contact 69 forming an electrical contact, it is the position of the examiner that this function is implicit to the name of the structure, i.e., contact 69. Saitou et al. do not disclose a neck graphite for supplying the high voltage. It is the position of the examiner, however, that such construction is conventional. Official notice taken. It would have been obvious to include a neck graphite for supplying the high voltage because such construction is conventional.

### ***Double Patenting***

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper extension of the exclusionary rights granted by a patent and to prevent possible

Art Unit: 2879

harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1, and 14 are provisionally rejected under the judicially created doctrine of double patenting over claims 1, and 8 of copending Application No. 09/909,195. Although the conflicting claims are not identical, they are not patentably distinct from each other for the following reasons: While the subject claims are not verbatim the same, one skilled in the art would recognize that the claims are directed to substantially the same invention. The principle difference between the claims are that the copending claims 1, and 8 do not include limitations directed to the main lens. Projection tubes conventionally include a main lens, furthermore, the elimination of an element and its function is generally considered within the skill of the art.

Art Unit: 2879

Claims 2, and 12 are provisionally rejected under the judicially created doctrine of double patenting over claims 5, and 6 of copending Application No. 09/909,195. Although the conflicting claims are not identical, they are not patentably distinct from each other for the same reasons as described in reference to claim 1, above.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

#### ***Allowable Subject Matter***

8. Claims 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable over the art of record if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

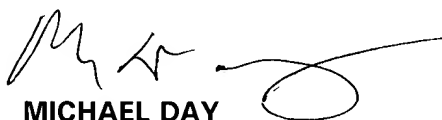
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Day whose telephone number is 703/305-4941. The examiner can normally be reached on Monday-Friday, from 8:00 A.M. to 5:00 P.M.

Art Unit: 2879

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimeshkumar Patel, can be reached by phoning 703/305-4794. The Fax phone number is 703/308-7382.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 703/308-0956.

March 19, 2003

A handwritten signature in black ink, appearing to read 'Michael Day', with a large, stylized loop at the end.

**MICHAEL DAY**  
**PRIMARY EXAMINER**  
**GROUP 2870**